

FILED

JUL 27 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MANJIT KAUR,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-75191

Agency No. A73-411-275

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 24, 2006^{**}

Before: ALARCÓN, HAWKINS and THOMAS, Circuit Judges.

Manjit Kaur, a native and citizen of India, petitions for review of the Board of Immigration Appeals' decision summarily affirming an Immigration Judge's ("IJ") denial of her applications for asylum and withholding of deportation, and

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

request for relief under the Convention Against Torture (“CAT”). We review for substantial evidence an adverse credibility finding and will uphold the IJ’s decision unless the evidence compels a contrary conclusion. *Malhi v. INS*, 336 F.3d 989, 992-93 (9th Cir. 2003). We deny the petition.

Substantial evidence supports the IJ’s denial of Kaur’s claims on the basis of an adverse credibility finding. Kaur’s asylum application omitted the fact that the police raped her during her second arrest, which goes to the heart of her claim. *See Li v. Ashcroft*, 378 F.3d 959, 962 (9th Cir. 2004). Additionally, Kaur’s testimony was inconsistent with her asylum application regarding the reason that she protested the Indian government in 1992. *See id.*

Because Kaur failed to establish eligibility for asylum, she necessarily failed to meet the more stringent standard for withholding of deportation. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Kaur’s claim under the CAT is based on the same testimony that the IJ found not credible, and she points to no other evidence that she could claim the IJ should have considered in making its determination under CAT, her CAT claim also fails. *See id.* at 1157.

PETITION FOR REVIEW DENIED.